IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25287 of 2004

Between:

1 N. Ramakrishnaiah, S/o. China Balaiah,

aged 75 years, Landholder,
R/o. Thana Street, Nawabpet, Nellore.
2 N. Yanadamma, W/o. N. Ramakrishnaiah,

aged 70 years, House wife,
R/o. Thana Street, Nawabpet, Nellore.
3 N. Rangaiah, S/o. China Balaiah,

aged 65 years, Landholder,
R/o. Thana Street, Nawabpet, Nellore.
4 N. Lakshmamma, W/o. Late N. Subbarayudu,

aged 55 years, Housewife,
R/o. Thana Street, Nawabpet, Nellore.
5 N. Uamaheswara Rao, S/o. Late N. Subbarayudu,

aged 38 years, Occ; Landholder,
R/o. Thana Street, Nawabpet, Nellore.

..... PETITIONERS

AND

1 Govt. of A.P. rep by its Principal Secretary,
Municipal Administration Department.
2 Nellore Municipal Corporation, rep by its Commissioner, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate Writ, Order or direction preferably a writ in the nature of Writ of Mandamus, declaring the action of the respondents in not handing over the land of

Ac. 00-96 1/4 cents in Sy. No. 327/2, Nellore Bit II Village-Nellore which was taken over in spite of judgment and subsequent order in E.P.No. 455/200 dt. 10-7-2001 on the file of the Court of the I Addl. Junior Civil Judge, Nellore, to the petitioners or in the alternative to pay compensation or allotting another land in lieu of acquired land as being illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India and consequently direct respondents to forthwith hand over the said land acquired by the respondents illegally or in the alternative pay compensation or allot another land and pass such other order or orders

Counsel for the Petitioner: MR.C.BALAJEE

Counsel for the Respondent No.2: V.RUHUVENDRA REDDY

The Court at the stage of admission made the following:

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ORDER:

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The petitioners seek a writ of mandamus, declaring the action of the respondents in not handing over the land admeasuring Ac.00-96 ¼ cents in Sy.No.327/2 of Nellore Bit II, as illegal and arbitrary.

The grievance of the petitioners is that their land in Sy.No.327/2 of Nellore was taken up by the respondents for the purpose of providing a road to the Zakeer Hussain Nagar colony, without initiating any proceedings under the provisions of Land Acquisition Act, in spite of the fact that they were prevented from taking any action against the land in question by the order of a Civil Court.

Heard the learned counsel for the petitioners and the learned counsel appearing for the respondents, and with their consent, the writ petition itself is disposed of at the stage of admission.

I have perused the material available on record. The relief sought for in this writ petition is a subject matter of the original suit in O.S.No.1317/1989, which was decreed in favour of the writ petitioner. In execution of the same, the writ petitioner has filed execution proceedings in E.P.No.455/2000. While disposing of the execution petition, the learned I Additional Junior Civil Judge, Nellore, having observed that it is admitted by the Municipal authorities that they are ready to hand over the disputed site to the writ petitioner, directed the Municipal authorities to hand over the vacant possession of the land in question to the writ petitioner as and when the writ petitioner approached the Municipal authorities.

In he background of the facts and circumstances of the case, the petitioner has approached this Court. Since the relief granted by the Civil Court in the execution proceedings and the relief sought for in this writ petition is one and the same, and having regard to the admission made by the municipal authorities before the Civil Court that they are ready to hand over the disputed site to the petitioner, and directed the municipal authorities to hand over vacant possession of the land in question to the petitioner as and when the petitioner approaches them, it is appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to make a representation to the respondent authorities requesting them to hand over the possession of the land in question as admitted to by them before the Civil Court in the execution proceedings, and if the petitioner makes any such representation, the respondent authorities are directed to consider the same and pass appropriate orders in accordance with law.

With the above directions, the Writ Petition is disposed of at the admission stage. No costs.

Dated: 18.01.2005

dsr/nsr

ASSISTANT REGISTRAR

To:

1. The Principal Secretary,

Municipal Administration Department,

Government of Andhra Pradesh,

Hyderabad

2. The Commissioner,

Nellore Municipal Corporation,

Nellore

3. Two CD copies